

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

D'ANDRE WHITLEY,)
Plaintiff,)
v.)
ANNE L. PRECYTHE, *et al.*,)
Defendants.)
No. 4:23-CV-898-MTS

MEMORANDUM AND ORDER

This matter is before the Court upon review of the file. On July 10, 2023, fourteen inmates incarcerated at the Missouri Eastern Correctional Center (“MECC”) filed a putative “class action” lawsuit pursuant to 42 U.S.C. § 1983. The complaint asserted claims against prison officials on behalf of a group of inmates as a whole. Although D’Andre Whitley’s name was included in the list of plaintiffs, he did not personally sign the complaint. Also, he did not pay the required filing fee, or move for leave to proceed without prepayment of such fee.

This action was opened after Whitley was severed from the originating action. On July 28, 2023, this Court entered an order giving Whitley the opportunity to file a signed amended complaint to assert his own claims for relief. Doc. [3]. The Court also directed Whitley to either pay the required filing fee, or file a motion for leave to proceed in forma pauperis. *Id.* The Court gave Whitley clear instructions about how to prepare the amended complaint, and cautioned him that his failure to comply would result in the dismissal of this action, without prejudice and without further notice. *Id.*

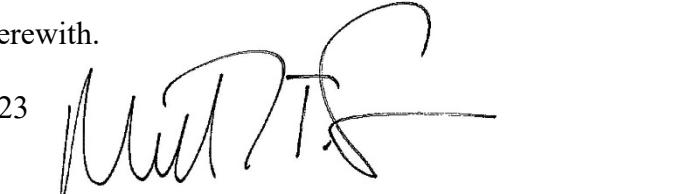
Whitley's response was due on Monday, August 28, 2023. To date, however, he has not complied with the July 28, 2023, Memorandum and Order, or sought additional time to do so.

Whitley was given meaningful notice of what was expected, cautioned that this action would be dismissed if he failed to timely comply, and given additional time to comply. Therefore, this action will be dismissed, without prejudice, due to Whitley's failure to comply with the Court's July 28, 2023, Memorandum and Order and his failure to prosecute this case. *See* Fed. R. Civ. P. 41(b); *see also* *Brown v. Frey*, 806 F.2d 801, 803 (8th Cir. 1986) ("A district court has the power under Fed. R. Civ. P. 41(b) to dismiss an action for the plaintiff's failure to comply with any court order[.]").

Accordingly,

IT IS HEREBY ORDERED that this case is **DISMISSED** without prejudice. A separate order of dismissal will be entered herewith.

Dated this 13th day of September 2023



MATTHEW T. SCHELP
UNITED STATES DISTRICT JUDGE